



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 9 March 2021

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE

9th Meeting 2021, Session 5

CONVENER

*Bill Bowman (North East Scotland) (Con)

DEPUTY CONVENER

*Gil Paterson (Clydebank and Milngavie) (SNP)

COMMITTEE MEMBERS

*Michelle Ballantyne (South Scotland) (Reform)

*Mary Fee (West Scotland) (Lab)

*Joe FitzPatrick (Dundee City West) (SNP)

*attended

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

Virtual Meeting

Scottish Parliament
Delegated Powers and Law Reform Committee

Tuesday 9 March 2021

[The Convener opened the meeting at 11:46]

Decision on Taking Business in Private

The Convener (Bill Bowman): Good morning. I welcome everyone to the ninth meeting in 2021 of the Delegated Powers and Law Reform Committee.

As we are meeting online, it will be more difficult for members to indicate agreement to the items that are discussed. Therefore, I ask members to raise their hand if they are not content with the question that is being put, or if they wish to speak about the instrument in question.

The first agenda item is a decision on whether to take items 8 to 12 in private. Is the committee content to take those items in private?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

European Union (Withdrawal) Act 2018: Instrument Procedure and Category

Food, Natural Mineral Water, Spring Water and Bottled Drinking Water (EU Exit) (Scotland) (Amendment) Amendment Regulations 2021 (SSI 2021/109)

11:47

The Convener: Agenda item 2 is consideration of an instrument that has been laid under the European Union (Withdrawal) Act 2018. The committee is considering whether the Scottish Government has applied the appropriate scrutiny procedure and the appropriate category to SSI 2021/109. The instrument has been laid under the negative procedure and has been categorised by the Scottish Government as being of low significance.

Is the committee content that the appropriate scrutiny procedure has been applied to the instrument and that it has been categorised properly as being of low significance?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

European Union (Withdrawal) Act 2018: Instrument Category

11:47

The Convener: Agenda item 3 is consideration of two instruments that have been laid under the European Union (Withdrawal) Act 2018. The committee is considering only whether the Scottish Government has applied the appropriate categories to the instruments.

Plant Health (EU Exit) (Scotland) (Amendment) Regulations 2021 [Draft]

The Convener: Is the committee content that the instrument has been categorised properly as being of medium significance?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Plant Health and Plant Propagating Material (Miscellaneous Amendments) (Scotland) Regulations 2021 (SSI 2021/87)

The Convener: Is the committee content that the instrument has been categorised properly as being of low significance?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instruments subject to Made Affirmative Procedure

11:48

The Convener: Agenda item 4 is consideration of two instruments that are subject to the made affirmative procedure, on which no points have been raised.

Health Protection (Coronavirus) (International Travel) (Managed Accommodation and Testing etc) (Scotland) Amendment Regulations 2021 (SSI 2021/107)

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 7) Regulations 2021 (SSI 2021/111)

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instruments subject to Affirmative Procedure

11:49

The Convener: Agenda item 5 is consideration of two instruments that are subject to the affirmative procedure, on which no points have been raised.

Budget (Scotland) Act 2020 Amendment Regulations 2021 [Draft]

Plant Health (EU Exit) (Scotland) (Amendment) Regulations 2021 [Draft]

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instruments subject to Negative Procedure

Milk and Healthy Snack Scheme (Scotland) Regulations 2021 (SSI 2021/82)

11:49

The Convener: Issues have been raised on three of the instruments for consideration under agenda item 6. SSI 2021/82 establishes the milk and healthy snack scheme as a food benefit in Scotland for pre-school children who receive childcare services from a registered childcare provider.

The committee raised various issues on the instrument with the Scottish Government. In its response, the Scottish Government said that it did not propose to take corrective action in relation to any of the points that the committee raised.

Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground because the reference to “Social Work Improvement Scotland” in paragraph 1(j) of schedule 2 fails to attract the definition of “SCSWIS” in regulation 2 of the instrument; a definition of “childcare provider” is missing from regulation 2; and the word “and” should be included at the start of the words that regulation 23 of the instrument inserts into subparagraphs b(i) and (ii) of the definition of “Healthy Start food” in regulation 2(1) of the Healthy Start Scheme and Welfare Food (Amendment) Regulations 2005 (SI 2005/3262)?

While acknowledging that no immediate corrective action is required, does the committee wish to call on the Scottish Government to amend the instrument at the next legislative opportunity to rectify the error in paragraph 1(j) of schedule 2 and, at the same time, to rectify the other errors that have been identified?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2021 (SSI 2021/100)

The Convener: An issue has also been raised on SSI 2021/100, the main purpose of which is to extend until 31 March 2022 the period for which planning consents remain valid during the coronavirus pandemic.

Issues were raised with the Scottish Government in relation to drafting errors that were

identified in regulations 4 and 5. The Scottish Government has committed to amending those errors before the instrument comes into force on 30 March 2021.

Does the committee wish to draw the instrument to the attention of the Parliament under the general reporting ground in respect of regulation 4(2)(b), where the reference to section 58(3A) of the Town and Country Planning (Scotland) Act 1997 should be to section 59(8) of that act, and the references to section 59(8A) and section 59(8B) of the 1997 act should be extended to include section 59(8C); and in respect of regulation 5(1), which should refer to “the relevant date” rather than “that date”? In addition, does the committee wish to welcome the Scottish Government’s commitment to lay an amending instrument to correct those errors before SSI 2021/100 comes into force on 30 March 2021?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Food, Natural Mineral Water, Spring Water and Bottled Drinking Water (EU Exit) (Scotland) (Amendment) Amendment Regulations 2021 (SSI 2021/109)

The Convener: The final negative instrument on which a point has been raised is SSI 2021/109, which amends the commencement date of regulations 3 and 4 of the Food, Natural Mineral Water, Spring Water and Bottled Drinking Water (EU Exit) (Scotland) (Amendment) Regulations 2021 (SSI 2021/66), which relate to domestic food labelling provisions.

The instrument has breached the rule that requires instruments that are subject to the negative procedure to be laid at least 28 days before they come into force.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j), in that it has been laid less than 28 days before coming into force and has therefore breached the laying requirements under section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010? At the same time, does the committee wish to note that it is satisfied with the explanation that has been provided for the failure to comply with the laying requirements?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

No points have been raised on the following three negative instruments.

Plant Health and Plant Propagating Material (Miscellaneous Amendments) (Scotland) Regulations 2021 (SSI 2021/87)

Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021 (SSI 2021/99)

Looked After Children (Scotland) Amendment Regulations 2021 (SSI 2021/103)

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instruments not subject to Parliamentary Procedure

Zoonoses Amendment (Coronavirus) (Scotland) Order 2021 (SSI 2021/83)

11:54

The Convener: Under agenda item 7, an issue has been raised on SSI 2021/83. The instrument amends the Zoonoses Order 1989 (SI 1989/285) to designate SARS-CoV-2 as a zoonotic organism that requires notification under section 29 of the Animal Health Act 1981 to assist the monitoring and control of virus mutations.

An issue was raised with the Scottish Government in relation to a drafting error that was identified in article 2(3)(c), which refers to a provision in schedule 1 of the Zoonoses Order 1989 as paragraph 3 of schedule 5 to the Animal Health Act 1981, rather than—as it should be—paragraph 5 of schedule 3 to that act. The Scottish Government has committed to correcting that error when it makes further planned amendments to the Zoonoses Order 1989 later this month.

Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground, as there is an error in the drafting of article 2(3)(c) of the order? In addition, does the committee wish to welcome the Scottish Government's commitment to correct that error when it makes further planned amendments to the Zoonoses Order 1989 later in March 2021?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

No points have been raised on the following two instruments.

Period Products (Free Provision) (Scotland) Act 2021 (Commencement No 1) Regulations 2021 (SSI 2021/104 (C 5))

Human Tissue (Authorisation) (Scotland) Act 2019 (Commencement No 2) Regulations 2021 (SSI 2021/108 (C 6))

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

11:56

Meeting continued in private until 12:29.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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